

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Mail Processing Network Rationalization
Service Changes, 2012

Docket No. N2012-1

**AMERICAN POSTAL WORKERS UNION, AFL-CIO,
MOTION TO COMPEL RESPONSES TO APWU
INTERROGATORIES APWU/USPS-21-22
(April 20, 2012)**

On March 29, 2012, the American Postal Workers Union, AFL-CIO (APWU), propounded institutional interrogatories APWU/USPS-21-22 on the Postal Service. On April 12, 2012, USPS filed responses to APWU/USPS-21(b) and 22 and filed an objection to APWU/USPS-21(a). Each of the interrogatories referenced above seek information related to the impact of the Postal Service's proposed network rationalization plan on Priority and Express Mail. The Postal Service has repeatedly failed to provide the information sought by these interrogatories. Pursuant to Rule 26(d) of the Commission's Rules of Practice and Procedure, APWU hereby respectfully moves the Commission to compel the Postal Service to respond promptly to interrogatory APWU/USPS-21(a). APWU further requests the Commission to compel the Postal Service to provide a more responsive answer to interrogatories APWU/USPS-21(b) and 22.

I. THE USPS SHOULD BE COMPELLED TO RESPOND TO APWU/USPS-21(a)

On March 29, 2012, the APWU propounded the following interrogatory on the United States Postal Service:

APWU/USPS-21 In response to APWU/USPS-T1-34 Mr. Williams stated that "the Postal Service is currently evaluating new service areas and assessing any potential changes required for Express Mail and Priority Mail service standards."

- a) Please provide the current performance data for Priority Mail and Express Mail.

On April 12, 2012 the Postal Service objected to this interrogatory claiming that the interrogatory is “irrelevant to the issues raised by the required in the instant docket,” is considered “commercially sensitive, proprietary, and restricted,” and because the interrogatory has already been asked and answered.¹ As explained more fully below, each of these objections are without merit.

A. The Information Sought is Plainly Relevant

Commission rules “allow discovery reasonably calculated to lead to admissible evidence during a noticed proceeding.” See 39 CFR 3001.25(a). The information requested in interrogatory APWU/USPS-21(a) is highly relevant to the Commission’s review in this docket and has been designed for the purpose of developing rebuttal testimony pursuant to Rule 25(a). In its objection the Postal Service first claims that “the current performance data for Express Mail and Priority Mail have no bearing on the issues raised in this proceeding.”² This assertion ignores the inevitable impact of its current proposal on Priority and Express Mail and should be rejected.

The current and future performance data for Priority and Express Mail is highly relevant to the Commission’s review of the Postal Service’s proposal in this docket. The Postal Service has made clear that a driving factor behind the proposed network rationalization plan and the resulting change in service standards is the financial and operating condition of the Postal Service. The Postal Service maintains that through this initiative and related service standard changes it will be able to cut costs and increase savings while maintaining sufficient revenue. Yet both market dominant and competitive products like Priority and Express Mail, contribute to the current financial condition of the Postal Service and both categories of products will impact its financial condition going forward. The mail processing facility consolidations driven by the Postal Service proposal will undoubtedly affect the competitive products in some way since some facilities to be consolidated currently process competitive products. Users of Express Mail and Priority Mail products experience some combination of 3-digit Zip

¹ USPS Objection to APWU/USPS-21(a) (filed April 12, 2012).

² Id.

Code pairing service standards and actual performance of those service standards today. If users of these competitive products experience something different after network consolidation, including slower standards, a degradation in service performance or both, the risk to existing revenue and profit contribution from customers turning to alternative service providers will be greater.

However, the Postal Service refuses to provide any information necessary to understand how competitive products might be affected. Consequently, the Commission and participants are unable to assess the overall impact of the Postal Service's proposal on its revenues and costs. Failing to perform the analysis on the impact on Priority and Express Mail and preventing others from doing so is not constructive. If the Postal Service hopes to improve its financial position moving forward and continue to provide valuable services to the public, it must be willing to look at its current proposal with open eyes. It cannot expect the Commission to endorse unprecedented reductions in service without looking at the actual impact expected. Interrogatory APWU/USPS-21 subparts a) and b) seek information necessary to understand the full impact of the Postal Service's proposal. Clearly, the information requested in APWU/USPS-21(a) is relevant to the Commission's Advisory Opinion and the Postal Service should be compelled to provide a response.

B. The Response to APWU/USPS-21(a) May be Filed Under Seal

The Postal Service also objects to providing the information requested in APWU/USPS-21(a) because it seeks information considered "commercially sensitive, proprietary, and restricted." Even assuming the Postal Service's characterization of the information sought is valid; the objection remains unpersuasive as the Postal Service can file the response under seal.

To date, the Postal Service has filed 18 non-public library references. The primary reason for filing the majority of these library references under seal was to protect information considered commercially sensitive, proprietary and restricted. Furthermore, though the Rules of Practice provide that interrogatories seek "non-privileged" information, the Postal Service has not routinely objected to other

interrogatories seeking privileged information. In fact, half of the 18 non-public library references were produced in response to an interrogatory or Presiding Officer information request.³ There are procedures in place to prevent commercial harm to the Postal Service from the disclosure of relevant but privileged information. The Postal Service should be compelled to provide this information, under seal if required, instead of keeping secret information that is plainly relevant to the Commission's advisory opinion in this case.

C. Postal Service Claim that APWU/USPS-21(a) Has Been Answered is Unsupported by the Record.

Lastly, the Postal Service objects to APWU/USPS-21(a) claiming that the interrogatory has already "been asked and answered" in APWU/USPS-T1-34(a) and (b). This specious claim is not supported by a simple review of the record.

Interrogatory APWU/USPS-T1-34(a-b) asked

APWU/USPS-T1-34 Page 26 of your testimony states that "[t]he Postal Service will continue to provide a 1-3 day Priority Mail service after network consolidation is implemented," and that it will also "continue to provide overnight Express Mail service." Your testimony further states that for both Priority Mail and Express Mail, "[t]he standards from each origin zone to the remainder of the country will be defined by the capability of the realigned mail processing network."

- a) What will be the impact of the realigned network on the service standards of these competitive products?
 - i. What percentage of Express Mail volume is currently delivered in one day? How will this change under the realigned network?
 - ii. What percentage of Priority Mail volume is currently delivered in one day? In two days? In 3 days? In more than three days? What will these figures be under the realigned network?
- b) What is the anticipated impact on the parcel components of these competitive products?

³ See USPS-LR-N2012-1/NP7 (filed January 6, 2012); USPS-LR-N2012-1/NP8 (filed January 12, 2012); USPS-LR-N2012-1/NP9 (filed March 30, 2012); USPS-LR-N2012-1/NP10 (filed January 20, 2012); USPS-LR-N2012-1/NP11 (filed January 26, 2012); USPS-LR-N2012-1/NP15 (filed March 6, 2012); USPS-LR-N2012-1/NP16 (filed March 8, 2012); USPS-LR-N2012-1/NP17 (filed March 9, 2012); USPS-LR-N2012-1/NP18 (filed March 19, 2012); USPS-LR-N2012-1/NP19 (file March 15, 2012).

- i. What percentage of Express Mail parcel volume is currently delivered in one day? How will this change under the realigned network?
- ii. What percentage of Priority Mail parcel volume is currently delivered in one day? In two days? In 3 days? In more than three days? What will these figures be under the realigned network?

Though the questions asked in APWU/USPS-34(a-b) are similar to the question posed in APWU/USPS-21(a), they are clearly not the same. Moreover, despite any similarities, the Postal Service response to APWU/USPS-34(a-b) is not a responsive answer:

RESPONSE:

a. The service standard day ranges are not changing. However, network changes may result in changes in the expected delivery day within each range for specific origin-destination ZIP Code pairs. Now that almost all facility-specific consolidation determinations have been made, the Postal Service is currently evaluating new service areas and assessing any potential changes required for Express Mail and Priority Mail service standards.

i-ii. The Postal Service is not required to report Express Mail or Priority Mail service performance. Even when it completes realignment of ZIP Code pair service standards as referenced in response to part (a) above, the Postal Service will still not be able to predict the percentage of mail within each product that will be delivered within its applicable service standard in the future

b. See the response to part a above. The Postal Service cannot predict the percentage of parcel-shaped mail within each product that will be delivered within its applicable service standard in the future.

This response included no service standard or service performance information, as sought by the interrogatory. Instead the Postal Service claims that an evaluation is taking place to assess any potential changes to Express Mail and Priority Mail service standards and further asserts that it is not required to report the service performance of these products. However, this is beside the point. That there is not a requirement to report does not mean that this information is not available or that there is no business need for this information. Moreover, this response to APWU/USPS-34(a-b) necessitated, at least in part, asking APWU/USPS-21(a) as evidenced by the preamble

to APWU/USPS-21. Therefore, this objection should be rejected as unfounded and the Commission should compel the Postal Service to provide the current performance data for Priority Mail and Express Mail as requested in APWU/USPS-21(a).

II. The Postal Service Answers APWU/USPS-21(b) and 22 are Non-Responsive
APWU/USPS-21(b)

Interrogatory APWU/USPS-21(b) asked:

Once the evaluation referenced in Mr. Williams' response [to APWU/USPS-T1-34] is complete, please provide the list of changed 3-digit Zip Code pairs for Priority Mail and Express Mail.

On April 12, 2012 the Postal Service responded:

The evaluation reference in Mr. Williams' response is still ongoing, and is contingent upon the final determination and implementation of the network changes. The Postal Service will provide the list of 3-digit ZIP Code pairs for Priority Mail and Express Mail once the evaluation is complete.

This response differs from earlier interrogatories which indicate that the impact of the Postal Service proposal on Priority and Express Mail "depend[ed] upon the results of the individual AMP studies."⁴ In its response to APWU/USPS-21(b) the Postal fails to address this contradiction and explain why an assessment of how Priority and Express Mail will be impacted by network rationalization must now wait until the "final determination and **implementation**" of the network changes.

From a business perspective it is illogical for an enterprise to implement changes without assessing the full impact of those changes. The Postal Service cannot legitimately claim the benefits of network consolidation when it has not evaluated its impact on its entire business. Without this information the Commission cannot properly advise as to whether the Postal Service proposal complies with the policies of Title 39, which necessarily includes examination of the impact on the overall costs, savings and revenues of the Postal Service. In response to APWU/USPS-T4-3-4 the Postal Service asserted that this evaluation would depend on the results of the individual AMPs

⁴ USPS Response APWU/USPS-T4-3-4 (filed January 12, 2012).

studies. Given that these studies were completed almost two months ago, this analysis should now be available and should be produced. If the Postal Service maintains that this analysis is not available, then it should be required to explain why this analysis has not been completed and how this omission was considered in developing the business case for the current proposal.

APWU/USPS-22

Interrogatory APWU/USPS-22 asks:

Does the Postal Service measure the volume of “turnaround” Priority Mail?

- a) What is the current percentage of Priority Mail that currently receives overnight delivery?
- b) What percentage of Priority Mail that currently receives overnight delivery will shift to 2-day delivery in the new rationalized network?

The Postal Service filed the following response on April 12, 2012:

RESPONSE:

Preamble) No.

a) Currently, 1.1% of origin-destination 3-digit ZIP Code pairs have an overnight Priority Mail service standard. Further, see the response to APWU/USPS-T1-34. The Postal Service is not required to report Express Mail or Priority Mail performance.

b) See the response to APWU/USPS-T1—34. Even when the Postal Service completes realignment of ZIP Code pair service standards as referenced in response to APWU/USPS-21(b), the Postal Service will still be unable to predict the percentage of Priority Mail that will be delivered within its applicable service standard in the future.

This answer does not adequately address the questions posed and a more responsive answer is required. Specifically, subpart a) of APWU/USPS-22 asks for the “**current percentage of Priority Mail** that currently receives overnight delivery” not the percentage of Priority Mail ZIP Code pairs affected. However, the Postal Service response states the percentage of “origin-destination 3-digit ZIP Code pairs” that have an overnight service standard. Also, subpart b) of the interrogatory sought the percentage of Priority Mail that currently receives overnight delivery, not the how well

the Postal Service met the Priority Mail service standards, yet the Postal Service addresses only service performance in its answer.

The information requested is designed to elicit relevant evidence to be used by APWU in rebuttal to the Postal Service case. The information sought by this interrogatory is also highly relevant to the Commission's Advisory Opinion for the same reasons as APWU/USPS-21(a) explained above. The Postal Service has provided no reason to believe this information is unavailable. Therefore, the Postal Service should be compelled to promptly supplement its response with the information actually requested in this interrogatory.

III. Impact on Other Discovery and Rebuttal Testimony

A. Related Discovery Responses should be Updated Accordingly

Several other discovery requests have sought information from the Postal Service related to the impact of the current proposal on Priority and Express Mail. For example, see PR/USPS-T4-15. Once the Postal Service produces the responses compelled by the Motion, pursuant to Commission Rule 26(f) it should also be required to update any and all discovery requests that relate to the impact on Priority and Express Mail.

B. Intervenors Should Be Permitted to Supplement Testimony

APWU intends to submit rebuttal testimony that addresses the impact of the Postal Service proposal on various products, including Priority and Express Mail. To that end, APWU has sought extensive discovery on these products. Unfortunately, relevant information sought by APWU/USPS-21-22 has not been provided. APWU intends to move forward with its testimony relying on the current, incomplete record. However, the testimony will be impacted by omission of this analysis but APWU anticipates being able to supplement the testimony once the information compelled by this Motion is provided. Therefore, APWU respectfully seeks leave to provide

supplemental testimony a reasonable time after the Postal Service has produced its responses to APWU/USPS-21-22.

Conclusion

For the foregoing reasons, APWU respectfully requests that the Commission compel the Postal Service to provide a response to APWU/USPS-21(a) immediately. APWU further requests the Commission order the Postal Service to provide more responsive answers to APWU/USPS-21(b) and 22 as detailed above.

Furthermore, since rebuttal testimony is scheduled to be submitted on Monday, April 23, 2012 and any supplement to rebuttal testimony should be provided as soon as possible, APWU requests that the Commission require the Postal Service to provide its response to this Motion within two days of the date of the filing of this Motion and that the Commission's order compelling responses to these interrogatories require that the responses be provided within five days of the date of the order.

Respectfully submitted,

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